

Assembly Bill No. 1582

CHAPTER 155

An act to amend Sections 56426.5, 56663, 57051, 57052, 57116, and 57150 of, and to amend and renumber Section 56426.5 of, the Government Code, relating to local agencies.

[Approved by Governor August 5, 2009. Filed with
Secretary of State August 6, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1582, Committee on Local Government. Local agencies: spheres of influence.

(1) Existing law requires a Local Agency Formation Commission to develop and determine the sphere of influence of each local governmental agency within the county. A commission is authorized, at the time a commission approves a proposal for an incorporation or a reorganization which includes an incorporation, to determine the sphere of influence for the proposed new city. The commission is required to determine the sphere of influence for any newly incorporated city within one year of the effective date of incorporation.

This bill would authorize a commission, beginning January 1, 2010, to determine the sphere of influence for a proposed new district, when a commission approves a formation or reorganization that includes the formation of a district. The commission would be required to determine the sphere of influence for any newly formed district within one year of the effective date of formation.

(2) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 governs the procedures for the formation and change of organization of cities and special districts. In the case of a petition for an annexation, a detachment, or a reorganization consisting solely of annexations or detachments, or both, signed by all of the landowners in the territory affected by the proposal, the commission may approve or disapprove the proposal without notice or hearing, if prescribed conditions are met. With respect to uninhabited territory, the commission may waive protest proceedings if all the owners of land have given written consent and no subject agency has submitted written opposition to a waiver of protest.

This bill would, with respect to uninhabited territory, additionally permit the commission to waive protest proceedings in the case of private railroad companies, if no private railroad company owners of land have submitted written opposition to a waiver of protest before the conclusion of the commission hearing and no subject agency has submitted written opposition to a waiver of protest.

(3) Existing law permits any owner of land or registered voter within inhabited territory proposed to be annexed or detached, or any owner of land within uninhabited territory proposed to be annexed or detached, to file a written protest against the annexation or detachment at any time prior to the conclusion of the noticed protest. The written protest is required to include the name and address of the owner of the land affected and the street address or other description sufficient to identify the location of the land or the name and address of the registered voter as it appears on the affidavit of registration.

This bill would repeal the requirement that the written protest include that information and would instead require the written protest to contain the same information that is required in a petition that proposes a change or organization or reorganization. The bill would additionally require the commission to determine the value of written protests in accordance with those petition requirements, and would make other technical changes.

(4) Existing law requires the expenses incurred in conducting elections for a change of organization or reorganization to be paid in a specified manner.

This bill would make technical conforming changes to that provision.

The people of the State of California do enact as follows:

SECTION 1. Section 56426.5 of the Government Code, as added by Section 6 of Chapter 1384 of the Statutes of 1989, is amended to read:

56426.5. (a) Beginning January 1, 1990, at the time a commission approves a proposal for an incorporation or a reorganization which includes an incorporation, the commission may determine the sphere of influence for the proposed new city. The commission shall determine the sphere of influence for any newly incorporated city within one year of the effective date of incorporation.

(b) Beginning January 1, 2010, at the time when a commission approves a formation or reorganization that includes the formation of a district, the commission may determine the sphere of influence for the proposed new district. The commission shall determine the sphere of influence for any newly formed district within one year of the effective date of formation.

SEC. 2. Section 56426.5 of the Government Code, as added by Section 4 of Chapter 614 of the Statutes of 2002, is amended and renumbered to read:

56426.6. (a) The commission shall not approve a change to the sphere of influence of a local government agency of territory that is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1) if that local government agency provides, or would provide, facilities or services related to sewers, nonagricultural water, or streets and roads to the territory, unless these facilities or services benefit land uses that are allowed

under the contract and the landowner consents to the change to the sphere of influence.

(b) (1) Notwithstanding subdivision (a), the commission may nevertheless approve a change for that territory if it finds either of the following:

(A) That the change would facilitate planned, orderly, and efficient patterns of land use or provision of services, and the public interest in the change substantially outweighs the public interest in the current continuation of the contract beyond its current expiration date.

(B) That the change is not likely to adversely affect the continuation of the contract beyond its current expiration date.

(2) In making a determination pursuant to this subdivision, the commission shall consider all of the following:

(A) The policies and implementation measures adopted by the city or county that would administer the contract both before and after any ultimate annexation, relative to the continuation of agriculture or other uses allowable under the contract.

(B) The infrastructure plans of the annexing agency.

(C) Other factors that the commission deems relevant.

(c) This section shall not apply to any of the following:

(1) Territory that is subject to a contract for which a notice of nonrenewal has been served pursuant to Section 51245.

(2) Territory that is subject to a contract for which a tentative cancellation has been approved pursuant to Section 51282.

(3) Territory for which the governing body of the county or city administering the contract has given its written approval to the change and the landowner consents to the change.

SEC. 3. Section 56663 of the Government Code is amended to read:

56663. (a) If a petition for an annexation, a detachment, or a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is signed by all of the owners of land within the affected territory of the proposed change of organization or reorganization, or if a resolution of application by a legislative body of an affected district, affected county, or affected city making a proposal for an annexation or detachment, or for a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is accompanied by proof, satisfactory to the commission, that all the owners of land within the affected territory have given their written consent to that change of organization or reorganization, the commission may approve or disapprove the change of organization or reorganization, without notice and hearing by the commission. In those cases, the commission may also approve and conduct proceedings for the change of organization or reorganization under any of the following conditions:

(1) Without notice and hearing.

(2) Without an election.

(3) Without notice, hearing, or an election.

(b) The executive officer shall give any affected agency mailed notice of the filing of the petition or resolution of application initiating proceedings

by the commission. The commission shall not, without the written consent of the subject agency, take any further action on the petition or resolution of application for 10 days following that mailing. Upon written demand by an affected local agency, filed with the executive officer during that 10-day period, the commission shall make determinations upon the petition or resolution of application only after notice and hearing on the petition or resolution of application. If no written demand is filed, the commission may make those determinations without notice and hearing. By written consent, which may be filed with the executive officer at any time, a subject agency may do any of the following:

- (1) Waive the requirement of mailed notice.
- (2) Consent to the commission making determinations without notice and hearing.

- (3) Waive the requirement of mailed notice and consent to the commission making determinations without notice and hearing.

(c) In the case of uninhabited territory, the commission may waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely if both of the following apply:

- (1) All the owners of land within the affected territory have given their written consent to the change of organization or reorganization, or in the case of private railroad companies, no private railroad company that is an owner of land within the affected territory has submitted written opposition to a waiver of protest proceedings prior to the conclusion of the commission hearing.

- (2) No subject agency has submitted written opposition to a waiver of protest proceedings.

(d) In the case of inhabited city and district annexations or detachments, or both, the commission may waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely if both of the following conditions apply:

- (1) The commission has provided written notice of commission proceedings to all registered voters and landowners within the affected territory and no written opposition from registered voters or landowners within the affected territory is received prior to the conclusion of the commission hearing. The written notice shall disclose to the registered voters and landowners that unless written opposition is received regarding the proposal or the commission's intention to waive protest proceedings, that there will be no subsequent protest and election proceedings.

- (2) No subject agency has submitted written opposition to a waiver of protest proceedings.

SEC. 4. Section 57051 of the Government Code is amended to read:

57051. At any time prior to the conclusion of the protest hearing in the notice given by the executive officer, but not thereafter, any owner of land or any registered voter within inhabited territory that is the subject of a proposed change of organization or reorganization, or any owner of land within uninhabited territory that is the subject of a proposed change of organization or reorganization, may file a written protest against the change

of organization or reorganization. Each written protest shall state whether it is made by a landowner or registered voter and shall include the same information that is required in a petition for a change of organization or reorganization, as specified in Section 56704. Protests may be made on behalf of an owner of land by an agent authorized in writing by the owner to act as agent with respect to that land. Protests may be made on behalf of a private corporation which is an owner of land by any officer or employee of the corporation without written authorization by the corporation to act as agent in making that protest.

Each written protest shall show the date that each signature was affixed to the protest. All signatures without a date or bearing a date prior to the date of publication of the notice shall be disregarded for purposes of ascertaining the value of any written protests.

SEC. 5. Section 57052 of the Government Code is amended to read:

57052. Upon conclusion of the protest hearing, the commission shall determine the value of written protests filed and not withdrawn. The value of written protests shall be determined in the same manner prescribed in Sections 56704, 56707, 56708, and 56710 for determining the sufficiency of petitions filed with the commission.

SEC. 6. Section 57116 of the Government Code is amended to read:

57116. In addition to any other requirements, any resolution of the commission ordering an incorporation subject to an election shall do all of the following:

(a) Provide for the election of the officers of the proposed city required to be elected, except as provided in Section 56724 and except as to officers designated as appointive, pursuant to Section 56723.

(b) Provide for the election on the question of whether members of the city council in future elections are to be elected by district, from district, or at large.

(c) If the petition so requests, state that the voters may express a preference as to whether or not the city shall operate under the city manager form of government, the ballot question being for or against the city manager form of government.

(d) If the petition so requests, state that the voters may express their preference between names for the new city.

SEC. 7. Section 57150 of the Government Code is amended to read:

57150. All proper expenses incurred in conducting elections for a change of organization or reorganization pursuant to this chapter shall be paid, unless otherwise provided by agreement between the commission and the proponents, as follows:

(a) In the case of annexation or detachment proceedings, by the local agency to or from which territory is annexed, or from which territory is detached, or was proposed to be annexed or detached.

(b) In the case of incorporation or formation proceedings, by the newly incorporated city or the newly formed district, if successful, or by the county within which the proposed city or district is located, if the incorporation proceedings are terminated. In the case of a separate election for city officers

held following the election for incorporation pursuant to Section 56825.5, by the newly incorporated city.

(c) In the case of disincorporation or dissolution proceedings, from the remaining assets of the disincorporated city or dissolved district or by the city proposed to be disincorporated or the district proposed to be dissolved if disincorporation or dissolution proceedings are terminated.

(d) In the case of consolidation proceedings, by the successor city or district or by the local agencies proposed to be consolidated, to be paid by those local agencies in proportion to their respective assessed values, if proceedings are terminated.

(e) In the case of a reorganization, by either of the following:

(1) If the reorganization is ordered, by the subject local agencies or successor local agencies, as the case may be, for any of the changes of organization specified in subdivisions (a) to (d), inclusive, that may be included in the particular reorganization, to be paid by those local agencies in proportion to their assessed value.

(2) If the reorganization proceedings are terminated or the proposal is defeated, by the county or counties within which the subject local agency is located.